

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES ROOT,

Plaintiff,

vs.

DESERT PALACE, INC., d/b/a CAESARS
PALACE HOTEL & CASINO,

Defendant.

Case No. 2:09-cv-01940-LDG-GWF

ORDER

Motion to Compel (#31)

This matter is before the Court on Defendant Las Vegas Metropolitan Police Department's Motion to Compel Discovery (#31), filed March 24, 2011.

Defendant Las Vegas Metropolitan Police Department ("LVMPD") requests an order compelling Plaintiff to substantively respond to Defendant's interrogatories and awarding attorney's fees and costs as sanctions. (*Id.*) To date, no party has responded to this motion and the time for opposition has now passed. LR 7-2(d) states in pertinent part, that "[t]he failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion." As a result, the Court will grant Defendant's motion to compel (#31).

In addition, because Plaintiff failed to timely respond to Defendant's discovery requests, Plaintiff shall substantively respond without objection. A party who fails to serve responses or objections in a timely manner has waived any and all objections to discovery requests. Fed.R.Civ.P. 33(b), 34(b); *Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1992) (finding waiver of objections due to untimely response to requests for production); *David v. Fendler*, 650 F.2d 1154, 1160 (9th Cir. 1981) (finding waiver of objections due to untimely response to interrogatories). See also *Senat v. City of New York*, 255 F.R.D. 338, 339 (E.D.N.Y. 2009) (stating that "there is consistent authority that a failure to serve timely responses

1 to interrogatories and document requests serves as a waiver of objections.”); *Ramirez v. County of*
2 *Los Angeles*, 231 F.R.D. 407, 409-10 (C.D.Cal. 2005).

3 The Court also finds that the award of attorneys fees and costs is merited under
4 Fed.R.Civ.P. 37 due to Plaintiff’s failure to respond to Defendant’s discovery requests and failure
5 to respond to the present motion. Accordingly,

6 **IT IS HEREBY ORDERED** that Defendant Las Vegas Metropolitan Police Department’s
7 Motion to Compel Discovery (#31) is **granted** as follows:

- 8 1. Plaintiff shall substantively respond without objection to Defendant Las Vegas
9 Metropolitan Police Department’s interrogatories and requests for production by
10 **May 2, 2011**; and
- 11 2. Defendant Las Vegas Metropolitan Police Department shall submit an application
12 for attorneys fees and costs by **May 2, 2011** that details the number of hours
13 expended on this matter and the applicable hourly rate.

14 **IT IS FURTHER ORDERED** that the hearing on this matter scheduled for Tuesday,
15 April 26, 2011 is **vacated**.

16 DATED this 20th day of April, 2011.

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19 GEORGE FOLEY, JR.
20 United States Magistrate Judge
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